



## Mortgage Foreclosure Prevention and Assistance

(A.R.S. §§ 33-721 – 33-730)

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### What is Foreclosure?

- Foreclosure is the process that a lender uses to terminate the rights of the homeowner when he or she fails to make payments in accordance with the mortgage. Under this process, the estate becomes the property of the lender who sells it in an attempt to recover the balance of the loan.

### What Happens if I Miss a Mortgage Payment?

- First Month: After the first missed payment, your lender's Collections or Loan Servicing Department will contact you by letter or phone to collect the past due payment.
- Second Month: After the second missed payment, your account will be turned over to the Loss Mitigation or Home Preservation Department who will contact you by letter or phone. The lender will work with you to create a plan to get back on track with your mortgage payments.
- Third Month: On the 91<sup>st</sup> day of missed payments, a third party trustee will take over your delinquent account. The trustee will send a "Notice of Sale" stating that the property will be sold 90 days from the date the notice is filed and recorded.

### Types of Foreclosure

Judicial foreclosure: this process involves filing a lawsuit to obtain a court order to foreclose. This is only used when there is no "Power of Sale" clause included in the mortgage or deed.

Non-judicial foreclosure: this process is used when there is a "Power of Sale" clause in the mortgage or deed. This clause states that the borrower preauthorizes the sale of property to pay off the balance of the loan in the event of their default.

- The trustee must take the following steps under this process:
  1. File a "notice of sale" with the county where the property is located;
  2. Post a copy of the "notice of sale" in some place on the property to be sold at least 20 days before the date of sale;
  3. Publish notice of the sale in a newspaper in the county where the property is located weekly for four consecutive weeks; and
  4. Hold the sale at the time and place designated in the notice which must be between 9:00 am and 5:00 pm on a day other than a Saturday or legal holiday.

### Tips to Avoid Foreclosure

- Do not ignore the problem. Open and respond to all mail from your lender and contact your lender as soon as you realize that you may have a problem making payments. Initial

notices will offer good information about foreclosure prevention and later mail may include notice of pending legal action.

- Know your rights. Read your loan documents so that you know what your lender may do if you cannot make your payments.
- Avoid foreclosure prevention companies. You do not need to pay large fees for foreclosure prevention help when that money could be used to pay your mortgage.

## **How Foreclosure May Affect Your Security Clearance**

- Under DoDD 5220.6, Guideline F, the inability or unwillingness to satisfy debts may raise a security concern.
- Note that in the past, lenders have made delinquency a requirement for loan modification. Purposely going delinquent on your mortgage is almost guaranteed to affect your security clearance.
- Security clearances are reviewed on a case by case basis and each individual's circumstances are taken into account. Some mitigating factors include:
  - Whether there were circumstances beyond your control, including market factors, loss of employment, a business downturn, unexpected medical emergency, death, divorce or separation;
  - Whether you made a good-faith effort to repay overdue creditors or resolve your debt;
  - Whether you are receiving counseling and there are indications that the problem is under control; and
  - Whether you have a history of not meeting financial obligations.

## **How Can I Get Help With my Mortgage?**

### The Homeowner Affordability and Stability Plan

- What is it? The President's plan to help homeowners restructure or refinance their mortgages to avoid foreclosure. There are two programs available:
  - Home Affordable Modification Program (HAMP): targets homeowners who are behind on their mortgage payments or struggling to keep their loans current
    - This program is designed to help lower your monthly mortgage payments.
    - Delinquency is not a requirement. Borrowers at risk of imminent default, but who are current on their payments, are encouraged to apply.
    - For eligibility requirements and to apply, visit:  
<https://www.makinghomeaffordable.gov/steps/Pages/step-2-program-hamp.aspx>. Note the application deadline is 12/31/2016.
  - Home Affordable Refinance Program (HARP): targets homeowners who are current on their mortgages but have been unable to refinance to a lower interest rate because their homes have decreased in value
    - This program is only available to homeowners whose mortgage is owned by Fannie Mae or Freddie Mac.
    - For eligibility requirements and to apply, visit:  
<https://www.makinghomeaffordable.gov/steps/Pages/step-2-program-harp.aspx>. Note the application deadline is 12/31/2016.

### Get Advice from a Housing Counseling Expert

- A housing expert can provide the following services:
  - Help identify mortgage assistance options suitable for your situation
  - Help create a budget that supports your mortgage and other expenses
  - Provide information about helpful local resources
  - Explain required documents
- For foreclosure prevention counseling, contact a HUD-approved housing agency. Find a location near you at: <http://www.hud.gov/offices/hsg/sfh/hcc/fc/>.
- For information about available programs and guidance, call 888-995-HOPE (4673).

### Arizona Foreclosure Help-Line

- Contact the help-line at 1-877-448-1211 for free counseling services.

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